

## Message Text

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E.O. 11652: XGDS-3 INDEFINITE

TAGS: MARR, TU

SUBJ: I.A. NEGOTIATIONS MEETING NOVEMBER 12, 1974;  
NATO/SOFA EXTENSION

1. AT I.A. NEGOTIATIONS MEETING NOVEMBER 12, 1974, DISCUSSION WAS INITIATED ON NATO/SOFA EXTENSION. U.S. REVIEWED DRAFTS OF 1970 AND POSITIONS TAKEN DURING MILITARY LEVEL NEGOTIATIONS 1970 TO 1971. U.S. SUGGESTED THAT JUNE 23, 1954, EXCHANGE OF NOTES ON NATO/SOFA EXTENSION COULD BE REVIEWED AND THEN LEFT AS IS WITH NEW EXCHANGE OF NOTES RECORDING FACT THAT AGREEMENT HAD BEEN REVIEWED IN ACCORDANCE WITH THE DCA. ANOTHER ACCEPTABLE ALTERNATIVE WOULD BE TO RECAST THE 1954 AGREEMENT AS AN IA. THIS HAD ALREADY BEEN DONE IN DRAFT BY EACH SIDE IN 1970. AT THE TIME, THE U.S. HAD POINTED OUT THAT THE FISCAL PROVISIONS WERE LARGELY OUTDATED AND COULD BE DROPPED BUT HAD AGREED TO RETAIN THEM AT TURKISH REQUEST. THE U.S. PREFERRED NO DURATION CLAUSE

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OR ONE TIED TO THE LIFE OF THE NATO/SOFA. U.S. RECALLED

THAT TURKS HAD INSISTED ON A STANDARD IA PROTOTYPE DURATION CLAUSE.

2. TURKISH CHAIRMAN ASULA TOOK A SURPRISINGLY HARD LINE AND INTRODUCED NEW ARGUMENTS AGAINST LEAVING THE AGREEMENT AS IS OR EMBODYING IT VERBATIM IN AN IA FORMAT. HE CLAIMED THAT SINCE 1963 IT WAS ILLEGAL FOR GOT TO CONCLUDE AGREEMENTS WITH FOREIGN STATES BY EXCHANGE OF DIPLOMATIC NOTES WITHOUT PROPER RATIFICATION BY COUNCIL OF MINISTERS. (COMMENT: THIS HAS NOT, OF COURSE, PREVENTED GOT FROM USING THIS MODE OF AGREEMENT FREQUENTLY UP TO PRESENT DAY). HE SUGGESTED THAT EXTENSION COULD BE TERMINATED BY EXCHANGE OF NOTES WITH COUNCIL OF MINISTERS' APPROVAL. HE CLAIMED THAT THE PROVISIONS OF THE NATO/SOFA EXTENSION WENT BEYOND PRESENT TURKISH LAW AND WOULD BE IMPOSSIBLE TO GRANT "IN THE PRESENT CIRCUMSTANCES". HE SAID THAT THE 1954 TEXT WOULD HAVE TO BE SCREENED VERY CAREFULLY IN THE IA REDRAFTING PROCESS TO DROP THOSE ELEMENTS WHICH WERE NO LONGER APPROPRIATE. HE CHARACTERIZED THE U.S. POSITION AS AN ATTEMPT TO OBTAIN PRIVILEGES BEYOND DCA AND BASIC NATO/SOFA. IT WAS POSSIBLE TO COVER THOSE PRIVILEGES IN A BILATERAL AGREEMENT IN 1954 BUT NOT SINCE THE 1969 DCA. NOW SUCH PRIVILEGES COULD ONLY BE ACCORDED BY THE HOST GOVERNMENT IN UNILATERALLY ISSUED REGULATIONS, SUCH AS THOSE COVERING CUSTOMS, JUDICIAL AND FISCAL ARRANGEMENTS SPECIFIED IN PARAGRAPHS 2 AND 3 OF DCA ARTICLE IV.

3. U.S. CHAIRMAN GARDNER NOTED THAT WE HAD COME TO THE MEETING ASSUMING THAT LITTLE WORK HAD TO BE DONE TO REACH AGREEMENT ON NATO/SOFA EXTENSION BASED ON REVIEW OF OUR FILES AND TURKISH DRAFT OF JUNE 8, 1970. HE POINTED OUT THAT THE U.S. AIM WAS SIMPLY TO CONFIRM ARRANGEMENTS WHICH HAD EXISTED SINCE THE BEGINNING OF OUR SECURITY RELATIONSHIP WITH TURKEY AND WHICH WERE IMPORTANT TO OUR CONTINUING OPERATIONS. THE EXTENSION DID NOT GRANT ADDITIONAL PRIVILEGES. ITS PRINCIPLE FUNCTION WAS TO DETAIL HOW GENERAL PROVISIONS OF THE BASIC NATO/SOFA WOULD BE IMPLEMENTED. WE RECOGNIZED THAT INDEED CERTAIN ELEMENTS, NAMELY THE FISCAL PROVISIONS, WERE OUTDATED AND HAD PROPOSED THAT THEY BE DROPPED. THE FISCAL PROVISIONS WERE RETAINED

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ONLY AT THE REQUEST OF THE GOT. CONTRARY TO BEING COUNTER TO SPIRIT OF THE DCA AS ASULA SEEMED TO SUGGEST, ONE OF MOST IMPORTANT PROVISIONS OF NATO/SOFA EXTENSION REGARDING PRIVILEGES OF EMPLOYEES OF DOD CONTRACTORS, WAS QUOTED VERBATIM IN THE AGREED MINUTE FOR DCA ARTICLE IV PARAGRAPH 1.

4. TURKISH CHAIRMAN ACKNOWLEDGED POINT ABOUT QUOTATION

OF NATO/SOFA EXTENSION IN DCA AGREED MINUTE, STATING THAT HE HAD PLANNED TO USE THE FACT THAT CONTRACTOR COVERAGE ALREADY INCLUDED IN DCA TO ARGUE FOR TERMINATION OF THE EXTENSION. HE SAID ONLY OTHER POINT THAT NEEDED COVERAGE WAS INCLUSION OF JUSMMAT PERSONNEL UNDER NATO/SOFA AS CITED IN TITLE OF TURKISH DRAFT OF 1970. OTHER PROVISIONS SUCH AS WAIVER OF GOT COUNTERSIGNATURE ON MOVEMENT ORDERS AND TRAIL OBSERVERS COULD NO LONGER BE GRANTED UNDER PRESENT TURKISH LAW, HE THOUGHT.

5. U.S. CHAIRMAN NOTED THAT NOTHING IN ARTICLE I 1.(A.) (DEFINITIONS) IN BASIC NATO/SOFA WOULD APPEAR TO EXCLUDE JUSMMAT PERSONNEL FROM NATO/SOFA PRIVILEGES. HE AGREED THAT IT WOULD BE POSSIBLE TO RESOLVE MATTER AS IN CASE OF UNDERSTANDING ON JUDICIAL COOPERATION BY EXCHANGE OF NOTES TERMINATING NATO/SOFA EXTENSION AS SUCH BUT EMPHASIZED THAT, AS IN CASE OF JUDICIAL COOPERATION SOME PROVISIONS SHOULD BE RETAINED. U.S. CHAIRMAN OBSERVED THAT THE TWO SIDES APPEARED TO BE TALKING AT CROSS PURPOSES ON THIS AGREEMENT AND RECOMMENDED THAT EACH SIDE SHOULD THOROUGHLY REVIEW THE MATTER. HE ASKED TURKISH CHAIRMAN TO PARTICULARLY CHECK HIS THESIS THAT PRIVILEGES INCLUDED IN NATO/SOFA EXTENSION WENT BEYOND LETTER AND SPIRIT OF DCA AND BASIC NATO/SOFA. TURKISH CHAIRMAN AGREED THAT REVIEW WAS A GOOD IDEA.

6. COMMENT: AT THIS POINT IT IS DIFFICULT TO DETERMINE HOW MUCH OF ASULA'S PRESENTATION IS OVERSTATED RHETORIC, (WHICH HE OFTEN ALLOWS HIMSELF), HOW MUCH IS THE RESULT OF A BASIC MISUNDERSTANDING OF THE ISSUES INVOLVED AND HOW MUCH REFLECTS AN AGREED GOT POSITION. SINCE THE DCA IN THE AGREED MINUTE TO PARA 1 ARTICLE IV COVERS THE CONTRACTOR PROVISIONS IN TOTO, AND OTHER PROVISIONS

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ARE MENTIONED IN NATO/SOFA, EXCHANGE OF NOTES COVERING ESSENTIAL ITEMS AND TERMINATING THE REMAINDER OF THE NATO/SOFA EXTENSION SEEMS POSSIBLE. WASHINGTON IAG COMMENTS ON ESSENTIAL PROVISIONS WOULD BE HELPFUL. WE HOPE THAT ASULA, FOLLOWING PATTERN HE HAS TAKEN WITH OTHER IS'S, WILL BACK DOWN FROM HARD LINE DOCTRINAIRE POSITION HE HAS TAKEN INITIALLY. WE WILL CONTINUE EFFORTS TO EDUCATE HIM.  
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